IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 26538 of 2007(H)

OS.190/2006 of MUNSIFF COURT, HOSDRUG
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PETITIONER:

K. KUNHIKRISHNAN, AGED 41 YEARS,
S/O.LATE KANNAN, KARYALAM, MALAPPACHERRY,
MADIKAI VILLAGE, P.O. KANHIRAPOIL,KASARAGOD DIST.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENT:

THANKAMMU, AGED 60 YEARS,
W/O. LATE V.V. KRISHNAN, KARYALAM,MALAPPACHERRY IN
MADIKAI VILLAGE, P.O. KANHIRAPOIL, KASARAGOD DIST.

BY ADV. SRI.KODOTH SREEDHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 26538/07

Appendix

Petitioner's Exts:

Ext.P1 the true copy of the interim report filed by the Advocate Commissioner dated 26.6.2006.

Ext.P2 the true copy of the eye sketch prepared by the Commission.

Ext.P3 the true copy of the report filed by the Commission dated 8.3.2007.

Ext.P4 the true copy of the plan submitted by the Commission.

Ext.P5 the true copy of the IA 2248/2007.

Ext.P6 the true copy of the order of the Munsiff's court, Hosdurg in IA 2248/07 dated 6.7.2007

M.N.Krishnan, J.

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W.P(C).No.26538 of 2007

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Dated this the 18th day of October, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Munsiff, Hosdurg in I.A.No.2248 of 2007 in O.S.No.190 of 2006. The said application was one for setting aside the Commissioner's plan and report. There were serious allegations levelled against the Commissioner. The court below found that there is no merit on those allegations and also held that there are no grounds to set aside the Commissioner's plan and report.

2. Heard both sides. The main grievance of the writ petitioner appears to be that the factors which he wanted to point out to the Commissioner have not been pointed out and they are really relevant and necessary for the proper disposal of the case. It is also submitted by him that he was not able to file work memo before the Commissioner. If additional particulars are necessary, certainly the matter can be resolved by remitting the

plan and report to the same Commissioner.

3. Therefore, I direct the court below to remit the Commissioner's plan and report to the same Commissioner and both the plaintiff and the defendant in the suit are permitted to file work memo regarding the points they want to be noted by the Commissioner. The Commissioner after due notice to the counsel appearing for both parties in the lower court shall fix a date and inspect the property and submit a plan and report. Since additional particulars are to be noted at the instance of the writ petitioner, the expenses have to be met by him for the same and the court below can pass appropriate orders in that direction.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 18/10